

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

James I. Scarpo #374212

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

Brian Sterling (Director)

Dennis Patterson (Deputy Director)

Charles Williams (Warden)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

RECEIVED
AUG 22 2022
U.S. DISTRICT COURT
GREENVILLE, S.C.

Complaint for Violation of Civil
Rights
(Prisoner Complaint)

Case-No. _____

(to be filled in by the Clerk's Office)

Jury Trial: Yes No
(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

When submitted for filing, your complaint should be accompanied by the full filing fee or an application to proceed *in forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

James I. Scarpo

All other names by which you have been known:

ID Number

374212

Current Institution

Perry Correctional Institution

Address

430 Oaklawn RoadPelzer, SC 29649**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Brian SterlingJob or Title
(if known)Director of Operations

Shield Number

Employer

South Carolina Department of Corrections

Address

4444 Broad River RoadColumbia, SC 29221-1787

Individual capacity



Official capacity

Defendant No. 2

Name

Dennis Patterson

Job or Title
(if known)

Deputy Director of Operations

Shield Number

Employer

South Carolina Department of Corrections

Address

4444 Broad River Road

Columbia, SC 29221-1787

Individual capacity

Official capacity

Defendant No. 3

Name

Charles Williams

Job or Title
(if known)

Warden of Perry Correctional Institution

Shield Number

Employer

South Carolina Department of Corrections

Address

430 Oaklawn Road

Pelzer, SC 29669

Individual capacity

Official capacity

Defendant No. 4

Name

Job or Title
(if known)

Shield Number

Employer

Address

Individual capacity

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- Federal officials (a *Bivens* claim)
 State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Eighth Amendment, the right to be free from cruel and unusual punishment.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

All defendants named are employees of the South Carolina Department of Corrections and at all times acted and or worked for the State.
Monroe v. Pape 365 U.S. 167 (1961)

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- Pretrial detainee
 Civilly committed detainee
 Immigration detainee

- Convicted and sentenced state prisoner
 Convicted and sentenced federal prisoner
 Other (*explain*) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Perry Correctional Institution on January 20th 2022
up unto Now 8/16/2022.

- C. What date and approximate time did the events giving rise to your claim(s) occur?

January 20th, 2022 up unto Now 8/16/2022.

- D. What are the facts underlying your claim(s)? (For example: *What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

On January 20th, 2022 around 9:30AM I was transferred
from Lieber Correctional Institution's General Population to Perry
Correctional Institutions "R.H.U"(lock up) Placed under investigation

Conducted by office of investigations and intelligence also known as Police Services investigation. It took me a week just to find out why I was transferred and placed in "RHU" (lock-up). I have been under investigation for 7 months. I was never caught doing anything...

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Severe daily anxiety and panic attacks, seeing and hearing things, depression, and a back injury from the improper bedding. I was evaluated by a mental health physician doctor and prescribed 4 medications geodon, vistaril, temtron, Paxful. And have been prescribed ibuprofen 400mg then meloxicam 15mg for lower back injury caused by the improper bedding. I've been exposed to in Perry's RHU and am also awaiting a x-ray.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

A permanent restraining order against Perry Correctional Institution. Order SCDC to change their office of investigations and intelligence Policy to include a timeline instead of as indefinite. Compensatory damages in the amount of \$70,000 against each defendant jointly and severally. Punitive damages in the amount of \$5,000 against each defendant jointly and severally. Defendants did violate plaintiff's rights said violation caused pain + suffering, were reckless and showed callous indifference.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

IV. Statement of Claim Section D Additional Page 1...

illegal or anything that violates S.C.D.C's Policies. My entire time here I have had no pending institutional charges or any new criminal charges or indictments of the sort. I am 13 months disciplinary free from catching any SCDC institutional charges, I have all of my privileges, am in full compliance and completely respectful but yet I am being held in "R.H.U" (lock-up) unconstitutionally, with no proper due process, being discriminated against, shown deliberate indifference, and not receiving equal protection as a inmate being forced against my will to live in complete constant isolation in inhumane living conditions being told that there is no time limit on their investigation and that they can hold me in "R.H.U" (lock-up) indefinitely. Even though I am 13 months disciplinary free, am not on any restrictions, I am not allowed things such as visitation with my family, canteen, receiving books/magazines from home etc... due to being on "R.H.U" (lock-up). But all other inmates who are not on any restrictions from disciplinary sanctions (such as myself) get to receive all of these things and more. I began reading the SCDC Policy and noticed there were things being done to me that went against policy so I then began writing "Request To Staff member" forms to defendants Dennis Patterson and Charles Williams explaining my concerns and issues how I'm being held on lock up unconstitutionally with no justifiable reasons and stated multiple policies that were not being followed properly. I also filed a Step 1 inmate grievance which was denied, then I filed a Step 2 inmate grievance.

IV. Statement of Claim Section D Additional Page 2...

Which was denied. After me addressing all of this and my family calling defendants Dennis Patterson and Charles Williams asking what's going on why am I being held on lock-up with no charges not being told anything, defendant Dennis Patterson called down to Perry Correctional Institution and ordered them to SD (Security Detention) me which is a form of punishment given to inmates for catching institutional disciplinary charges for serious things. SD holds inmates in lock up and they have to go to a review board every 90 days and recommended to be released. I was brought forth to a SD hearing and recommended to be SD-3 by Perry Correctional Institution and told that defendant Dennis Patterson ordered this and it doesn't matter how many SCDX policies I quote that have been broken I would still be SD.

This hearing took place on August 9th, 2022 around 1:30 PM. Inmates have the right to appeal any disciplinary hearings and classification reviews within 5 days of the hearing. I wrote a grievance to appeal the SD board/SD hearing on August 11th, 2022. The grievance was returned to me on August 15th, 2022 saying the grievance was a duplicate and the matter was dismissed. Which is impossible because that was my first ever SD board I've ever been too therefore my one and only time appealing to that hearing. I wrote the grievance coordinator explaining this but I have yet to receive a response. All in all I'm being subjected to cruel and unusual punishment being held on "RHU" (lock-up) with no charges, unconstitutionally, with no proper due

IV. Statement of Claim Section D additional Page 3...

Process, not receiving equal protection as a inmate, being discriminated against shown deliberate indifference, and am being punished and forced to live in inhumane conditions for going on 7 months now. I'm not receiving any proper answers as to why im being treated like this and when I do finally get answers it consists of "Your on investigation and can be held indefinitely" "You are to remain where you are until further notice" or "I have no idea as to what's going on". I'm in complete isolation 24 hours a day 7 days a week. The windows looking outside are completely covered by sheet metal and impossible to see out of and iv only been allowed outside for exercise/recreation 7 times in the 7 months iv been here. I'm only allowed 1 phone call a week for 15 minutes and not allowed visitation with my family. The defendants and SCDC's policies are cruel and inhumane.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes
 No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29648

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

Yes
 No
 Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

Yes
 No
 Do not know

If yes, which claim(s)?

SD board/SD hearings

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes
 No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

- Yes
 No

E. If you did file a grievance:

1. Where did you file the grievance?

Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

2. What did you claim in your grievance?

That I have been being held in "R.H.U" (lock-up) at Perry Correctional Institution since January 20th, 2022 with no Pending institutional charges or any new Criminal charges or indictments being held with no justifiable reason as to why and not being told anything.

3. What was the result, if any?

My Step 1 inmate grievance was denied by defendant Charles Williams who is the Warden of Perry correctional Institution.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I filed a Step 2 inmate grievance which was denied and therefore exhausted all administrative remedies for SCDC grievance Procedure.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

Yes

No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (*If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.*)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (*if federal court, name the district; if state court, name the county and State*)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Yes

No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: August 16th, 2022.

Signature of Plaintiff

James I. Scarpo

Printed Name of Plaintiff

James I. Scarpo

Prison Identification # 3M4212

Prison Address 430 Oaklawn Road

Pelzer

South Carolina

29669

City

State

Zip Code

B. For Attorneys

Date of signing: _____, 20___.

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address _____

Telephone Number _____

E-mail Address _____